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09/747,366	12/22/2000	Stephen Charles Appling	U75.12-0069/PA-057.11195-	2463
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EXAMINER				
BONSHOCK, DENNIS G				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/747,366

Applicant(s)

APPLING, STEPHEN CHARLES

Examiner

DENNIS G. BONSHOCK

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-11, 13 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11, 13, and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Final Rejection

Response to Amendment

1. It is hereby acknowledged that the following papers have been received and placed on record in the file: Amendment as received on 10-7-2008.
2. Claims 1-21 have been examined.

Status of Claims:

3. Claims 1-5, 7-11, 13, and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heidingsfeld et al., patent #6,823,359, hereinafter Heidingsfeld and Meyer, patent # 6,157,943.
4. Claims 6, 12, and 14, have been canceled by the applicant.
5. Claim 15, has been withdrawn by the applicant.

37 C.F.R. § 1.131

The declaration filed on 5-3-2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the Heidingsfeld et al. reference.

The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Heidingsfeld et al. reference. The applicant alleges conception of the subject matter claimed as early as January 25, 1999 as evidenced by an "initial design document" marked Exhibit 1.

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy

the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when they occurred."). See *MPEP* §715.07.

The design document dated January 25, 1999 is ineffective to establish conception because applicant fails to clearly explain which facts or data from the design document are being relied upon to show proof of conception of the claimed invention. Insofar as applicant has not demonstrated support for the inventive concept (i.e. frame having height of zero and width of zero within the web page; displaying outside the frame at least one updateable object within the web page, wherein the at least one updateable object corresponds to an HVAC system; configuring the frame to periodically request updated data from a server, the updated data comprising an instruction set for causing the frame to update the at least one updateable object; and configuring the frame, in response to receiving the updated data, to cause the at least one updateable object to be updated, such that the updating of the at least one updateable object updates only a portion of the web page...) .

Proof of prior invention under 37 C.F.R. §1.131 can be proved by:

- (A) > (actual)< reduction to practice of the invention prior to the effective date of the reference; or
- (B) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or
- (C) conception of the invention prior to the effective date of the reference coupled

with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice). *Please see MPEP §715.07.*

The declaration filed January 25, 1999, it appears, attempts to show conception (described above from Exhibit 1) coupled with due diligence to a subsequent actual reduction to practice (shown in Exhibits 2 and 3).

In the instant application applicant is alleging actual reduction to practice, on February 7 and 8 of 2000, through evidentiary Exhibits 2 and 3. Exhibit 2 is an advertisement in which the invention was to be demonstrated. With respect to the actual reduction of practice, there exists insufficient evidence in Exhibit 2 to prove that the system actually existed and worked for its intended purpose. At best, Exhibit 2 demonstrates a broad building control system exists. Furthermore, the advertisement of Exhibit 3 is again an announcement that the "WebCTRL" (what ever it entails) exists. It would be desirable to see the actual code, outline, and/or presentation of what was presented February 7 and 8 of 2000 at the AHR Expo, rather than an advertisement for what was going to be presented.

In summary:

The documents cited "Greenhouse UI Architecture", of Exhibit 1, does not help prove reduction to practice as it states that all of the components "Need to be developed", and further only provides a broad view of the specifics that are claimed. Then in Exhibits 2 and 3 only show that some broad UI existed to be displayed to

members of the Expo, where the claim is directed toward the underlying way the display is generated (through the "frame having a height of zero and a width of zero").

Of particular concern is the Applicants stating that "an embodiment of the invention claimed in the '366 application was included in the demonstration of WebCTRL at the AHR Expo" on February 7 and 8 of 2000, but then goes on to state that neither "the functions for dynamically updating objects contained within a web page" nor "the function or components of the WebCTRL product... that represent an embodiment of the invention claimed in the '366 application" were publicly disclosed at the Expo. This makes it unclear what exactly was disclosed at the Expo. Exhibits 2 and 3 are only advertisements for the product not showing the specifics of the claim, but only providing a broad view of the specifics that are claimed.

For at least these reasons the 37 C.F.R. § 1.131 declaration is insufficient to overcome Heidingsfeld et al.

Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 7-11, 13, and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heidingsfeld et al., patent #6,823,359, hereinafter Heidingsfeld and Meyer, patent # 6,157,943.

8. With regard to claim 1, Heidingsfeld teaches a method for updating data within a web page using a frame that is invisible to the user (see column 3, lines 18-21 and column 5, lines 50-59), further providing, outside of the frame, data in a web page that is capable of being updated without refreshing the entire web page (see column 5, lines 50-59 and column 4, lines 14-20), a frame (IO frame, which is invisible) that periodically requests updated data (instructions that guide the update) from a server (see column 3, lines 51-64 and column 5, line 50 through column 6, line 6), and causing the display frame to be updated in accordance with the data received without refreshing the entire webpage (see column 5, lines 50-59, column 1, lines 40-41, and column 4, lines 14-20). Heidingsfeld, however, doesn't teach the at least one updatable object corresponding to an HVAC system. Meyer teaches a system for monitoring data displayed on a web page similar to that of Heidingsfeld (see column 4, lines 19-39), but further teaches the updateable objects corresponding to an HVAC system (see column 4, lines 19-39 and column 3, lines 36-56). It would have been obvious to one of ordinary skill in the art, having the teachings of Heidingsfeld and Meyer before him at the time the invention was made to modify web page monitoring system of Heidingsfeld to include HVAC information, as did Meyer. One would have been motivated to make such a combination because effective remote monitoring of HVAC systems can increase efficiency.

9. With regard to claim 2, which teaches the at least one updateable object being an HTML element, Heidingsfeld teaches, in column 3, lines 30-33, the renderings of the data being via HTML.
10. With regard to claims 3 and 17, which teach configuring the frame to request updated data from the server in response to a time reaching a threshold value, Heidingsfeld teaches, in column 3, lines 51-64, requesting updated data when a predetermined amount of time has passed.
11. With regard to claims 4, 10, and 18 which teach the instructions set comprising a Script that is executable by the frame without user interaction, Heidingsfeld teaches, in column 3, line 61 through column 4, line 19, initiating a request for updated data on a periodic basis (no user interaction involved), where the data can be JavaScript.
12. With regard to claims 5, 11, and 19 which teach causing the at least one updateable object to be updated comprising interacting with an external Script running within the web page external to the frame in order to cause the external Script to modify the updateable object without refreshing the web page, Heidingsfeld teaches, in column 4, lines 14-20 and column 5, line 50 through column 6, line 16, using instructions from a server transmitted to a frame external to the display, to modify the display, where the data can be JavaScript.
13. With regard to claims 7 and 20, which teach the updated data generated by a Java servlet executed by the server, Heidingsfeld teaches, in column 3, lines 7-10 and 27-33 and in column 4, lines 41-45, the transmission of updated JavaScript data between the client and the sever.

14. With regard to claim 8, Heidingsfeld teaches a method for updating data within a web page using a frame that is invisible to the user (see column 3, lines 18-21 and column 5, lines 50-59), further providing, outside of the frame, data in a web page that is capable of being updated without refreshing the entire web page (see column 5, lines 50-59 and column 4, lines 14-20), a frame (IO frame, which is invisible) that periodically requests updated data (instructions that guide the update) from a server (see column 3, lines 51-64 and column 5, line 50 through column 6, line 6), and causing the display frame to be updated in accordance with the data received without refreshing the entire webpage (see column 5, lines 50-59, column 1, lines 40-41, and column 4, lines 14-20). Heidingsfeld, however, doesn't teach the updated data being related to sensor information in an HVAC system. Meyer teaches a system for monitoring data displayed on a web page similar to that of Heidingsfeld (see column 4, lines 19-39), but further teaches the updateable objects corresponding to an HVAC system (see column 4, lines 19-39 and column 3, lines 36-56), and the state of the data coming from sensors on the respective objects (see column 3, lines 22-24). It would have been obvious to one of ordinary skill in the art, having the teachings of Heidingsfeld and Meyer before him at the time the invention was made to modify web page monitoring system of Heidingsfeld to include HVAC information, as did Meyer. One would have been motivated to make such a combination because effective remote monitoring of HVAC systems can increase efficiency.
15. With regard to claim 9, which teaches the invisible frame comprises an HTML element with a height attribute and a width attribute each set to a value of zero,

Heidingsfeld teaches, in column 3, line 18-21 and 31-33, a web browser rendering HTML data in a display frame, the HTML data being sent from an invisible frame (a frame having height and width of zero).

16. With regard to claim 13, which teaches the condition being selected from the group consisting of time, temperature, airflow, and damper position, Heidingsfeld teaches, in column 3, lines 51-64, requesting updated data when a predetermined amount of time has passed, but doesn't teach temperature, airflow, and damper position. Meryer teaches, in column 3, lines 36-56, the HVAC system receiving input from airflow sensors, a thermostat, and a variable damper.

17. With regard to claim 16, Heidingsfeld teaches a method for updating data within a web page using a frame that is invisible to the user (see column 3, lines 18-21 and column 5, lines 50-59), further providing, outside of the frame, data in a web page that is capable of being updated without refreshing the entire web page (see column 5, lines 50-59 and column 4, lines 14-20), a display device and corresponding processing unit (see figure 1), a frame (IO frame, which is invisible) that periodically requests updated data (instructions that guide the update) from a server (see column 3, lines 51-64 and column 5, line 50 through column 6, line 6), the data is processed and causes the display frame to be updated in accordance with the data received without refreshing the entire webpage (see column 5, lines 50-59, column 1, lines 40-41, and column 4, lines 14-20). Heidingsfeld, however, doesn't teach the at least one updatable object corresponding to an HVAC system. Meyer teaches a system for monitoring data displayed on a web page similar to that of Heidingsfeld

(see column 4, lines 19-39), but further teaches the updateable objects corresponding to an HVAC system (see column 4, lines 19-39 and column 3, lines 36-56). It would have been obvious to one of ordinary skill in the art, having the teachings of Heidingsfeld and Meyer before him at the time the invention was made to modify web page monitoring system of Heidingsfeld to include HVAC information, as did Meyer. One would have been motivated to make such a combination because effective remote monitoring of HVAC systems can increase efficiency.

18. With regard to claim 21, which teaches the frame being an inline frame, Heidingsfeld teaches, in column 5, lines 50-51 and in column 3, lines 31-33, the webpage containing an invisible frame, where the HTML protocol is used (this is similar to the inline frame as defined on pages 2 and 3 of the specification).

Response to Arguments

The arguments filed on 10-7-2008 have been fully considered but they are not persuasive. Reasons set forth below.

The Declaration was insufficient to overcome the Heidingsfeld reference.

The Applicant's argue that steps 2 and 3 are resident in paragraph 3.1 of Exhibit

1.

In response, the Examiner respectfully submits that the frame of zero height and zero width can be seen analogous to the inline frame of Exhibit 1, where the iframe effects the update, but doesn't see where the "object corresponds to an HVAC system".

The Applicant's argue that steps 3 and 5 are resident in Exhibit 1.

In response, the Examiner respectfully submits that the Applicant has not given a specific location where the limitations are pointed out in the Exhibit. The idea of periodically requesting updates is not seen in the Exhibit, nor is there support for the "instruction set". The Examiner additionally does not see where the updatable object updates only a portion of the web page, is resident in the Exhibit, nor is any direction provided as to where such limitation is supported.

The Applicant's argue that Exhibits 2 and 3 show that an Expo occurred and that the invention was presented.

In response, the Examiner respectfully submits that Exhibits 2 and 3 show that an Expo was to occur and that a WebCTRL product was to be demonstrated there, but only give a broad advertisement of what WebCTRL is. It would be desirable to see the actual code, outline, and/or presentation of what was presented February 7 and 8 of 2000 at the AHR Expo, rather than an advertisement for what was going to be presented.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DENNIS G. BONSHOCK whose telephone number is (571)272-4047. The examiner can normally be reached on Monday - Friday, 6:30 a.m. - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571) 272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis G. Bonshock/
Primary Examiner, Art Unit 2173
1/14/09
dgb

Application Number

Application/Control No.

09/747,366

Applicant(s)/Patent under
ReexaminationAPPLING, STEPHEN
CHARLES

Examiner

DENNIS G. BONSHOCK

Art Unit

2173